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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,740	07/08/2003	Aaron B. Lian	DBH:8000.0023-002	1830

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EXAMINER

FERGUSON, MICHAEL P

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 03/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/615,740

Applicant(s)

LIAN ET AL.

Examiner

Michael P. Ferguson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 15, 16, 18, 21, 22, 25, 26, 38, 39 and 46-51 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18, 21, 22, 25, 26, 38, 39 and 46-50 is/are allowed.
- 6) ☒ Claim(s) 15, 16 and 51 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement filed July 8, 2003 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

### ***Claim Objections***

2. Claims 18,21,25 and 26 are objected to because of the following informalities:

Claim 18 (line1) recites "bucket or the like". It should recite --bucket--.

Claim 21 (line 20) recites "wewar member". It should recite --wear member--.

Claim 25 (line 4) recites "said second member". It should recite --said wear member--.

Claim 26 (line 2) recites "said second member". It should recite --said wear member--.

For the purpose of examining the application, it is assumed that appropriate correction has been made.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. Claims 15 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Petersen (US 4,367,602).

As to claims 15 and 16, Petersen discloses a lock, comprising:

a rigid, substantially incompressible lock body **12** (element **12** comprising a body which is locked by retainer **46**; thus element **12** defines a lock body), the lock body being generally block-shaped, and the lock body defining an opening **32** and a pair of channels (defined on opposite sides of shank **21**; Figure 4) in communication with the opening and in communication with (located within) opposite sides of the lock body;

a retainer **46** having a hinge portion **47** and a pair of legs **49** terminating in respective ends, the hinge portion being receivable within the opening and each of the pair of legs being receivable within a respective one of the pair of channels, and the ends of the legs extending beyond the sides of the lock body (internal sides of through opening **32**); and

the lock body having a recess **26** in communication with the opening for prying the retainer out of the lock body; and

the lock body having a longitudinal take-up member **57** (element **57** taking-up any space between lock body **12** and retainer **46**; thus element **57** defines a take-up member; Figures 1,4 and 4A).

5. Claim 51 is rejected under 35 U.S.C. 102(b) as being anticipated by Bierwith (US 6,032,390).

As to claim 51 Bierwith discloses a lock assembly for excavating equipment comprising:

a base member **20** fixed to the excavating equipment;

a wear member **12,16** adapted to be received over the base member for mounting to the excavating equipment, the wear member including a hole; and

a lock **23,44** received into the hole in the wear member to releasably hold the wear member to the base member, the lock including a body **44** having a channel formed with two open ends, a retainer **46,48,50** movably received in the channel between a retaining position where the retainer holds the lock within the hole in the wear member and a release position where the retainer permits the lock to be withdrawn from the hole, and a take up member **26** adjustable secured to the body to tighten the fit of the wear member on the excavating equipment (Figures 1-5).

***Allowable Subject Matter***

6. Claims 18,21,22,25,26,38,39 and 46-50 are allowed.
7. The following is a statement of reasons for the indication of allowable subject matter:

As to claim 18, Bierwith discloses the claimed lock assembly with the exception of the channel defining a second opening in the lock body separate from the first opening, the retainer being accessible by a user via the second opening to be moved internally of the lock body in a direction toward the second opening so as to retract the portion of the retainer from the interfering position when the first member and the second member are in the coupling engagement.

As to claim 46, Bierwith discloses the claimed lock assembly with the exception of the retainer having a second portion accessible by a user via a second of the open

ends to move the retainer to the release position wherein the first portion is retracted to permit removal of the lock from the hoe in the wear member.

There is no teaching or suggestion, absent the applicants' own disclosure, for one having ordinary skill in the art at the time the invention was made to have modified the lock assembly as disclosed by Bierwith to have the above mentioned elemental features.

### ***Response to Arguments***

8. Applicant's arguments filed December 22, 2005 have been fully considered but they are not persuasive.

As to claims 15 and 16, Attorney argues that:

Petersen does not disclose a lock, comprising *a lock body; a retainer having a pair of legs terminating in respective ends, the ends of the legs extending beyond the sides of the lock body; and the lock body having a longitudinal take-up member.*

Examiner disagrees. As to claims 15 and 16, Petersen discloses a lock, comprising a lock body **12** (element **12** comprising a body which is locked by retainer **46**; thus element **12** defines a lock body); a retainer **46** having a pair of legs **49** terminating in respective ends, the ends of the legs extending beyond the sides of the lock body (internal sides of through opening **32**); and the lock body having a longitudinal take-up member **57** (element **57** taking-up any space between lock body **12** and retainer **46**; thus element **57** defines a take-up member; Figures 1,4 and 4A).

***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Ferguson whose telephone number is (571)272-7081. The examiner can normally be reached on M-F (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571)272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
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03/03/06



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